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Aug 1870

UNITED STATES OF AMERICA









S P E E C H  
OF  
HON. THOMAS N. STILWELL,  
" OF INDIANA,  
ON  
RECONSTRUCTION;

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1866.



W A S H I N G T O N:  
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## RECONSTRUCTION.

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The House being in the Committee of the Whole on the state of the Union—

Mr. STILWELL said:

Mr. CHAIRMAN: From the 14th day of April, 1861, when the American flag was fired on at Fort Sumter, until the surrender of General Lee and his whole army to General Grant, April 9, 1865, the people of eleven of the States of this Union were in armed rebellion against the national Government.

It was the proclaimed object of these people to cut the threads of national life, and sever the bonds of political Union.

It was the proclaimed object of the national Government to maintain its rightful authority over these States; to execute its laws and protect its flag over every foot of this widely extended territory; to mark and punish rebellion as a flagrant crime; and to bring back the deluded masses to a Union which for nearly eighty years had spread over them the mantle of peace and prosperity.

### THE ISSUE.

That the public mind might be clearly informed of the issue involved; that no one might enter the army on either side under misapprehension; that when the battle was ended, and peace again restored, there should be no doubt or cavil in regard to the objects of the war, Congress, speaking in the name of the nation, passed, on the 23d of July, 1861, by a nearly unanimous vote, the following resolution:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or

interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

### ITS OBLIGATIONS.

There is not in the whole history of legislation an act of greater solemnity, or a contract more binding. Am I wrong in calling it a contract? Did it not pledge the national faith to every one in arms, that when he should capitulate, the rights of his State and of self-government should be preserved to his children and kindred, even though he might suffer the penalties of the law?

Did it not pledge the national faith to every Union man in the southern States, that, if he would stand fast to the Government, all his rights should be protected, and when peace should come, be fully restored to him? Did it not pledge the national faith to every man who enlisted in the service of his country, that no love of power, no lust of conquest, no military subjugation, should enter into the purposes of the war, but that it was waged merely to preserve, not to destroy Government?

Have not those in the southern States who have been true to their allegiance amid the most bitter persecutions known in the annals of history, who have seen their dwellings burned and their fields desolated, and who have fled to their mountains for refuge, and raised the flag on their summits, no claim to the fulfillment of this pledge? Have those at the North, who rushed to the battle-field to preserve national

unity and restore national fraternity, no right to insist on the fulfillment of this pledge, without which they would have remained at home? Has not the nation itself a right to demand on this floor, and everywhere, that its plighted faith and its sacred honor, which have survived the storm of revolution, shall not perish in the halls of its own Capitol?

It is said, I know, that one Congress is not bound by the acts of a previous Congress, and that what was done in 1861 is not binding in 1866. Can this be so? Is the pledge of the national faith to pay money more binding than when it was made to preserve Government and protect liberty? Is the millionaire, who stays at home and lends his money, a more favored creditor of the nation than he who shoulders his musket and goes to the field under the solemn pledge that State institutions should survive the shock of battle? National faith is essential to national life. It is the cementing bond of Union, the noblest attribute of government, and the virtue nearest allied to the great source of omniscient wisdom and justice.

This resolution adopted in the first year of President Lincoln's administration, shaped his policy and was the guide of his public life. All his acts had reference to it; under it he declared that to save the Union, (that is, to preserve the States,) was the first and great duty. To this everything was made subservient. If it could be done by protecting slavery, then slavery was to be protected. If it could best be done by destroying slavery, then slavery was to be destroyed. Hence, his administration was simple, straightforward, and consistent; and it is a matter of record that this policy received the unanimous support of his Cabinet.

His address to the people of Washington on the 13th of April, 1865, the last public act of his life, was the most studied, comprehensive, and perfect of the many papers which he has left for the instruction of posterity. It recapitulated all the principles laid down in the resolution, and gave to it a practical and tangible form. The system was perfect in all its parts, and complete in all its details. The time for practical application had come, and that application was about to be made by him, when the hand of the assassin deprived the nation of its head, the Constitution of its wisest de-

fender, and the State governments of their truest friend.

By the action of our institutions the responsible duty of carrying out these measures devolved on the Vice President, Andrew Johnson. Here a wide field of ambition was opened to the new President. Armies were to be employed or disbanded; old States proscribed, or new ones brought into existence; the policy of the old Administration was to be continued, or a new policy adopted; and we all remember how the nation held its breath while these questions were under advisement.

At length the decree came forth that the policy of Abraham Lincoln was to be continued. That the resolution of July 23, 1861, which had formed the platform of the war, was also to be the platform of peace; and that those who had pinned their faith on the solemn declaration of Congress, were not to be disappointed.

The South immediately showed signs of national life. Industry, apparently dead, began to revive; confidence, which had been lost, returned with a bold step; and hope, which was about to expire, was again lighted up in the hearts of the people. The North felt that their labors had not been in vain; that they were again to have a whole country, a united country, and that the blood which had been shed on many battle-fields would but cement and preserve our Union.

Congress had laid down the rule. President Lincoln had interpreted it, and President Johnson accepted the interpretation and followed it. How earnestly he has labored to carry forward this great work; how many great difficulties have been interposed both North and South, to its final accomplishment; how party strife has at last come in unbidden, even in the hour of the nation's greatest peril, to thwart the holy purposes of union and fraternity, I need not stop to say. That the matured plans of President Lincoln, faithfully carried out by President Johnson, will finally be accepted by the American people, is my firm belief and earnest hope.

#### CONGRESS.

Since the opening of the session of Congress many new theories of reconstruction have been put forward. For the past four years the ingenuity of the legal profession has employed itself in demonstrating that the Union of the

States is indissoluble; that the Constitution has conferred no power either on the Supreme Court, on Congress, on the several States, or on the people of the States to break the bonds of its authority and release the people from their allegiance. We had supposed this to be a political axiom. After four years of bitter strife we had hoped that the bond of our Union, after it had been bathed in the blood of a half million of patriots, would never again be called in question. But, Mr. Chairman, in this we are mistaken.

The argument of the gifted and eloquent gentleman from Ohio, [Mr. SHELLABARGER,] delivered in this Hall on the 8th of January, goes to prove that there is a power within the Government which can destroy it, and that that power has been successfully exerted. He has labored to prove that a noble Union of thirty-six States has been shattered in pieces, and that eleven of those States, broken and dismembered, are now drifting on the billows of revolution like the hulls of a fleet disabled and scattered by the storm. And, sir, by what train of argument has he reached a conclusion so opposed to the national instinct and the convictions of the public judgment.

He has searched the law of nations to find the definition of a State, as it lives in the family of nations—an independent sovereignty, co-equal, existing under certain conditions, and possessing certain attributes, and then, sir, has applied that definition to the States of our Union—the States of a constitutional Government, in which each derives its characteristics and its attributes not from the law of nations, but from a written Constitution defining and limiting the powers of each and all, and marking with accuracy their joint and several duties and their mutual relations. His whole argument, based on his definition of a State, therefore falls to the ground, for the argument can apply only to what is covered by the definition, and hence is entirely inapplicable to States as they exist under our form of government.

#### ADMISSION OF STATES AND TREASON.

The gentleman from Ohio has bestowed much learning and labor on the question of admitting States into the Union, and has pointed out very clearly the antecedent conditions of such admission. But, sir, does all this show that the rights

which are conferred by admission can be forfeited afterward? Does it show that a State can go out of the Union as well as into it?

"Treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid and comfort."—*Constitution*, art. 3, sec. 3.

Does this apply to individuals or to States? The next paragraph answers the question:

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Now, sir, the Constitution gives no definition of treason as applied to a State. It is the treason of the individual which the Constitution defines and for which it prescribes a punishment. This, sir, is both the letter and the spirit of the instrument. In neither a paragraph or a line of that instrument is there any allusion to the expulsion or punishment of a State. The person or individual is alone referred to, and the State, as such, is in nowise held responsible. The Government has retained, in its own hands, the power and right to punish treason. Having done this, would it be just to hold a State responsible when its citizens commit treason. Can Congress impose such responsibility?

#### WHAT THE CONSTITUTION GUARANTIES.

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."—*Constitution*, art. 4, sec. 4.

Now, sir, what does this article of the Constitution guaranty? A republican form of government. To whom does it guaranty it? To every State in this Union. Does it guaranty it to States out of the Union? Certainly not. This power, therefore, can only be exercised by Congress over States in the Union, and not over States out of it. In fact, sir, the Constitution never contemplated the case of a State going out, or being out, of the Union. Gentlemen on this floor have labored, with much astuteness and learning, to show how a State may go out of the Union; and that, under their way, eleven of the States have actually gone out.

I beg leave to remind those gentlemen, with great respect, that although the mode is somewhat novel, the principle itself is not new. It is the same principle which first appeared in the celebrated resolutions of 1798, which was revived under the name of nullification by John C.

Calhoun in 1830, and culminated in secession in 1861. It is the same vicious principle which has seduced the hearts of a portion of our people from their allegiance to government, which has trampled on our flag, which has bathed our land in blood and filled our homes with mourning. I had hoped, sir, that four years of war, and such a war, had wiped out forever from the public mind every thought of nullification, secession, and disunion, and that we had emerged from the bloody contest with but one national pulsation, that the States "are one and inseparable, now and forever."

The gentleman from Ohio has been at great pains to show that the Government has a right to treat every individual of a State that has been in rebellion as a public enemy; that is, adjudge him guilty of treason and deprive him of citizenship, while the Constitution expressly provides that "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

What, Mr. Chairman, would be the practical operation of this new doctrine of constructive treason; of declaring that whenever by fraud or violence a State government should be interrupted or overthrown the whole people within its borders, as a body, should be treated as public enemies and beyond the protection of the General Government. Would it not at once transfer the allegiance of every citizen from the national to the State government, and effectually destroy our entire system? When the storms of tumult and civil discord should rage, would the affrighted citizen fly to the flag of his country only to be told that his State had rebelled and that he himself was a traitor? What nerved the arms and inspired the hearts of so many true patriots in the South during the recent struggle? It was the conviction that citizenship could only be lost by individual acts and not forfeited by the acts of others. It was the conviction that the air they breathed was the atmosphere of the whole nation, and that when the storm had passed it would again be pure, invigorating, and peaceful.

I know of no people, in any age or country, who adhered to their allegiance with greater fidelity, met danger with more determined bravery, who offered up their lives more cheer-

fully, and bore the flag of their country through fiercer storms than the Union men of the South. Andrew Johnson, in a speech to the people of Knoxville, thus describes their condition:

"My countrymen! my heart yearns toward you, and I am one of you. I have climbed yonder mountains, rock-ribbed and glowing in sunshine, in whose gorges, in whose caverns your sons, hunted like beasts, have fallen to rise no more. I do not speak of these things to draw your tears. It is not the time for tears, but for blows. I speak of them that I may fit your arms for unconquerable fight. And I speak of them because the mountain seems to talk to me. My house is among the mountains, and, though it is not far away, I cannot go to it. It is the place where I met and loved her who is the mother of my children. Do I not love the mountains? And if liberty is to expire, if freedom is to be destroyed, if my country in all its length and breadth is to tremble beneath the oppressor's tread, let the flag, the dear old flag, the last flag, be planted on your rocky heights, and upon it let there be this inscription: 'Here is the end of all that is dear to the heart and sacred to the memory of man!'"

The doctrine of the gentleman from Ohio treats these men as public enemies, and deems them to have forfeited their political rights. And indeed, sir, his doctrine has received some sanction from the action of the House itself. The time, however, must come, and that soon, when we shall be brought face to face on all these great questions. We must decide whether those who were members of Congress during the most critical period of the rebellion, (including the President himself,) who went home and encountered all its furies, and have come back with certificates of election, are to be admitted, or are to be shot down, as rebels, at the door of the Capitol, not by the bullets of the enemy, but by the votes of Congress.

#### WHEN REPRESENTATIVES SHOULD BE ADMITTED.

Immediately after the military surrender of the rebel armies, the President had to accept the civil surrender of the people. The session of Congress had just terminated, and they would not reassemble until December. The Cabinet the legal advisers of Mr. Lincoln, were at their posts, and the President solicited their counsel and aid. All that Congress had asked, as conditions precedent to reconstruction, was the adoption of the constitutional amendments which they had passed. I think it must be admitted that after these had been accepted, in good faith, no subsequent conditions could justly be imposed. The President, however, acting in the true spirit that had governed his predecessors, went even beyond what he or Congress had asked, and suggested to the southern peo-

ple that they would best promote the common interests of all by adding to the conditions which Congress had prescribed the utter repudiation of the confederate debt in all its forms, and a full guarantee to the African race of entire equality with the whites in all matters affecting personal liberty and civil rights.

My sentiments on these matters are fully stated in the following resolution which I had the honor of presenting to this House on the 19th day of December:

*"Resolved,* That when the people who have been in rebellion against the Government have submitted to the laws of the United States, adopted a republican form of government, repealed the ordinance of secession, passed the constitutional amendment forever abolishing slavery, repudiated the rebel war debt, and passed laws protecting the freedman in his liberty; the representatives of those people elected to Congress, and having received their certificates of election from their respective Governors, should be received as members of the Thirty-Ninth Congress when they shall take the oath prescribed by the last Congress, known as the test oath, without delay."

Under such conditions, when they are complied with in good faith, Mr. Chairman, I am ready to vote for the admission immediately of all loyal men who come here and take the prescribed oath that "they have never voluntarily assisted in the rebellion." What power, sir, has a right to exclude such representatives? If the rights of one man cannot be taken away by the misconduct of another, the loyal citizens of every State of this Union have an equal right to be represented here. And when, sir, the subject has been fully considered, I feel that that right will be cheerfully and speedily accorded.

#### OUR FOREIGN RELATIONS.

Are there not, Mr. Chairman, strong motives arising out of our foreign relations, that should urge us to harmony, fraternity, and union? Without these we can never be great, we can never be strong. No sooner had the echo of the first gun fired at Sumter reached the British isle, than the old lion shook the dew-drops from his mane and began to growl. During the entire struggle, a rumbling sound ran through the entire British empire, indicating a wish to strike us if the happy moment should arrive. Privateers were fitted out under the very eye of the Government to prey upon our commerce; insulting paragraphs appeared in all their public journals; protection and sympathy were extended to rebels by public meetings and on all public occasions, and we were indebted for

the preservation of peace to our great strength and the bravery of our troops in the field. France, our ancient ally, and who went with us, side by side, through the Revolution, also sought to profit by our misfortunes, and sent an army to Mexico to overturn a sister republic and establish there a monarchy, in direct hostility to the policy of our Government, proclaimed to the world forty years ago and followed implicitly by every Administration to the present time. Now, sir, with a knowledge of these facts, indicating a settled purpose abroad to profit by our divisions at home, is it wise to foment civil discord and divide in interest and sentiment this great nation, which should be bound together by all the ties which can unite a people?

#### OUR FINANCES.

The finances of a nation are alike the evidences of its greatness and the foundations of its power. No subject engages so earnestly the attention of a statesman as how to make labor most useful and productive. The southern States are capable of producing at the present moment, by a rightly adjusted system of labor, four million bales of cotton per annum, which at present prices would be worth \$800,000,000; add to this \$100,000,000 for rice and tobacco, and we have an annual amount, at present prices, for three articles alone, of one third of our entire national debt. Now, Mr. Chairman, instead of bringing these people back into the Union, encouraging and developing their industry, making them again a part of the Government and obliging them to contribute their full share in the payment of the national debt, there are gentlemen on this floor who would expend \$50,000,000 annually for the poor gratification of keeping them out of the Union for four years longer. We have been fighting for four years to bring them back into the Union. And how, sir, is this \$50,000,000 to be furnished? It is to be collected by the tax-gatherer from the honest laborer of the North. Is it worth while to sacrifice so much for passion and resentment? Is it not better to calm sectional strife, to heal the wounds of the nation, to absorb in the current of a healthy public sentiment the disloyalty which yet bursts from a few hearts as the mighty river carries the little rills which issue from the mountain side?

#### ELECTIVE FRANCHISE.

In regard to the subject of the elective franchise, I agree with the President in his message, which says:

"When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise."

I heartily concur in the above, and believe that the regulation of the elective franchise in all the States, and the qualifications of electors belong to the States each for itself, and are subjects in which Congress, under the Constitution, has no right to interfere; the policy of the President on this, as well as on many other subjects, was to preserve the Government as he found it, and not to make a new one, the Constitution of the United States having referred the matter of suffrage to the States, and invested them with the exclusive power over it, and it was not competent for the President to interfere with a prerogative so expressly conferred upon them, and so long exercised by them.

I will not, Mr. Chairman, pursue this subject further. I rejoice in the great good which the recent contest has produced. I hope we may reap all its legitimate fruits. I hope it will make us a great and united people, with one language, one heart, one destiny. I rejoice, sir, that the African race has risen to the condition of freedom. In the dispensations of Providence the nation laid its hands on the bowed captives and they sprang to the dignity of freedom. It

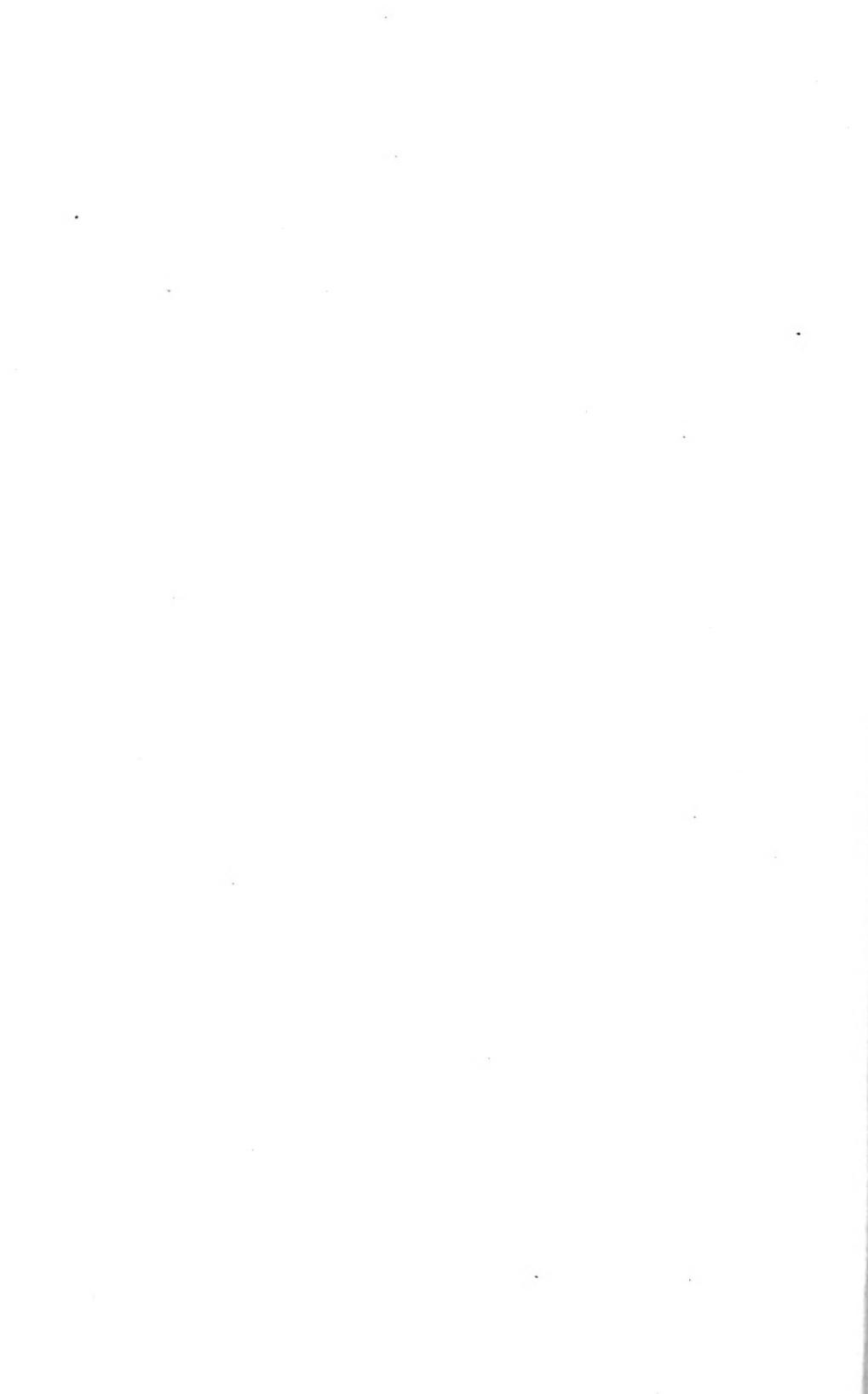
touched their sightless eyes and they opened to the morning light of perpetual liberty. At the beginning of the contest they appeared to be the orphans of Providence; at its close they are the wards of the Republic. Under Providence, the guiding legislation of Congress, and the wisdom and justice of those whom they live among, they are now to go forward to their final destiny. Starting as men, with perfect equality before the law, they will soon become an important part of the body politic. Time will wear away prejudice and soon reconcile all parties to the new condition of things.

Mr. Chairman, I am hopeful of the future. The Constitution, as it stands, is the bond of perfect union and the guarantee of innumerable blessings to this people. Under it we have grown to be a great and powerful nation. It seems to me to embrace within its ample folds every State and every individual of each State, whether he be rebel or loyal; and that it has full power to punish the one and protect the other. I hope, sir, that in settling the grave question before us we shall keep ourselves within the bounds of this great charter of our liberties, and that no considerations of party advantage or political power will swerve us from the line of duty at a moment so critical. If this be so the future presents no difficulties. The eleven eclipsed stars will pass from under the shadows which now obscure them, and return to the pure light of a restored and happy Union.





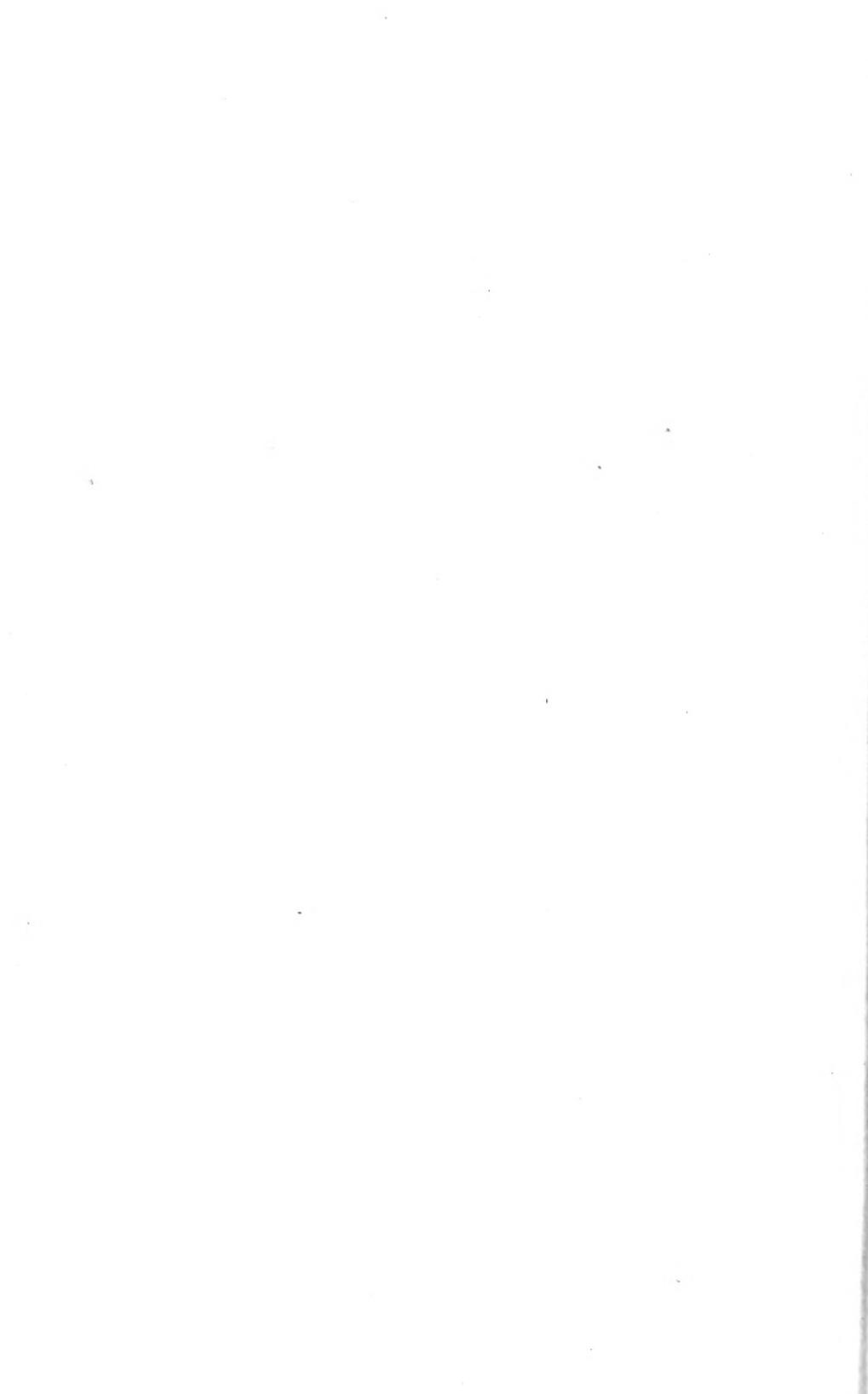




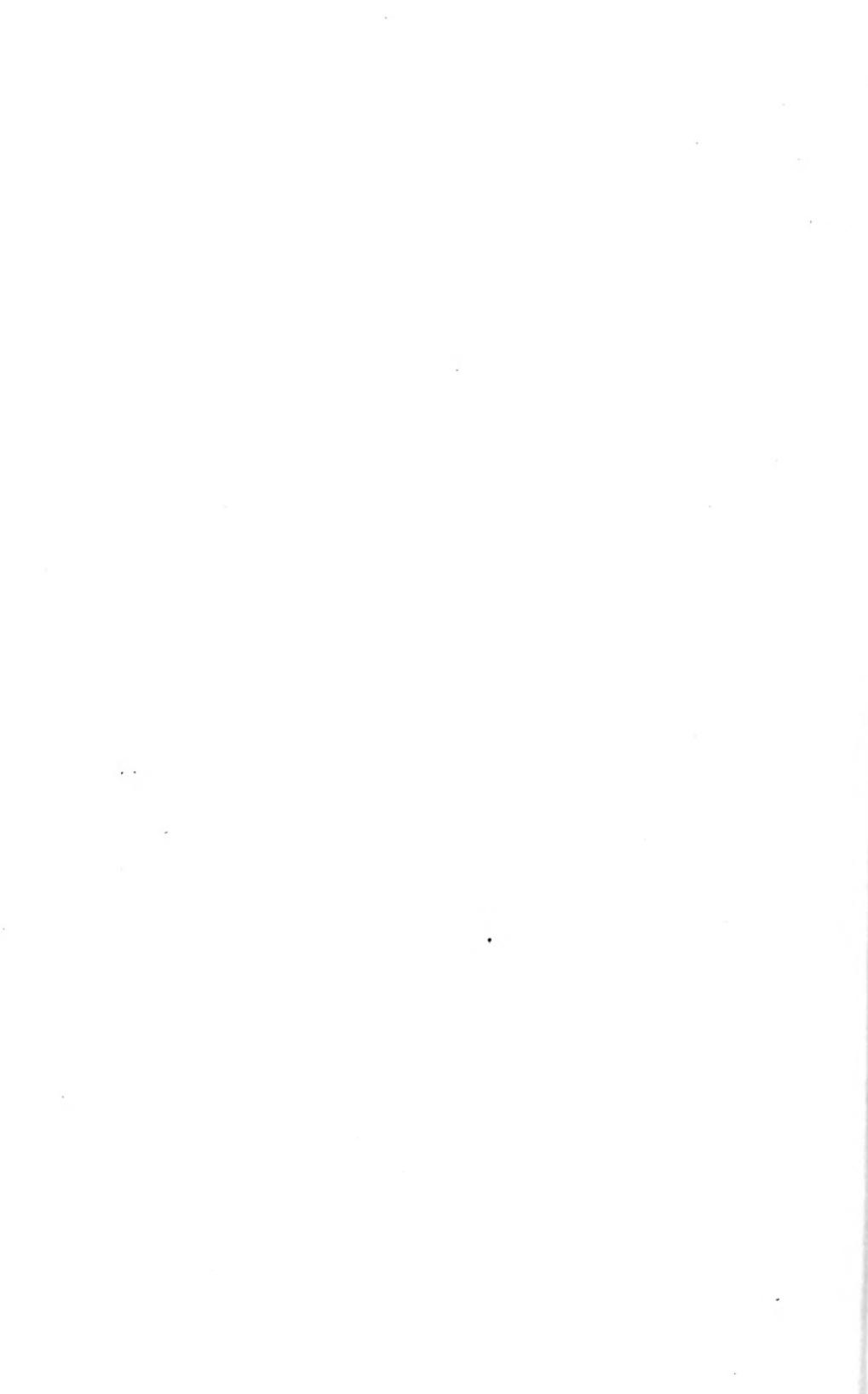


















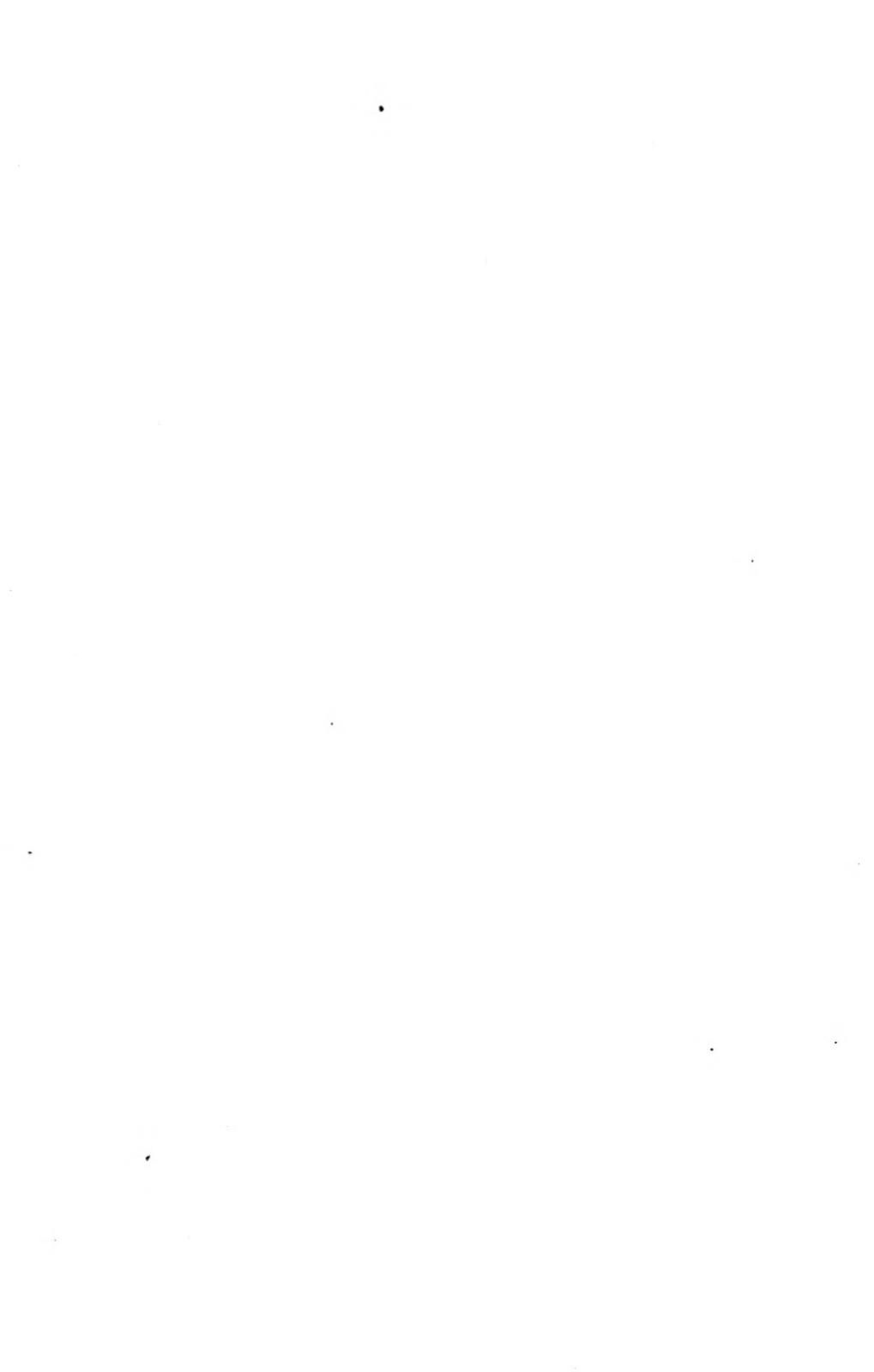
















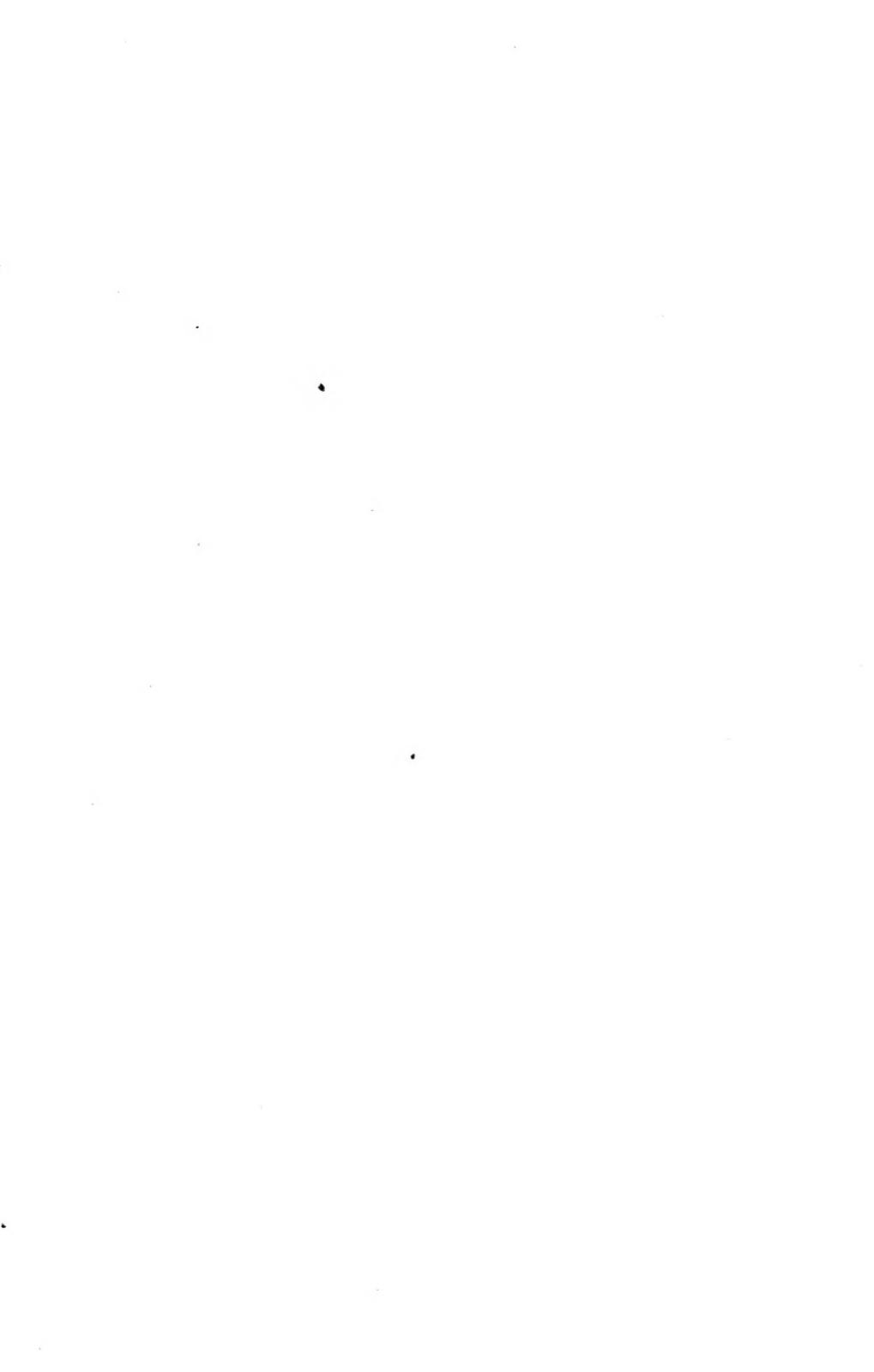


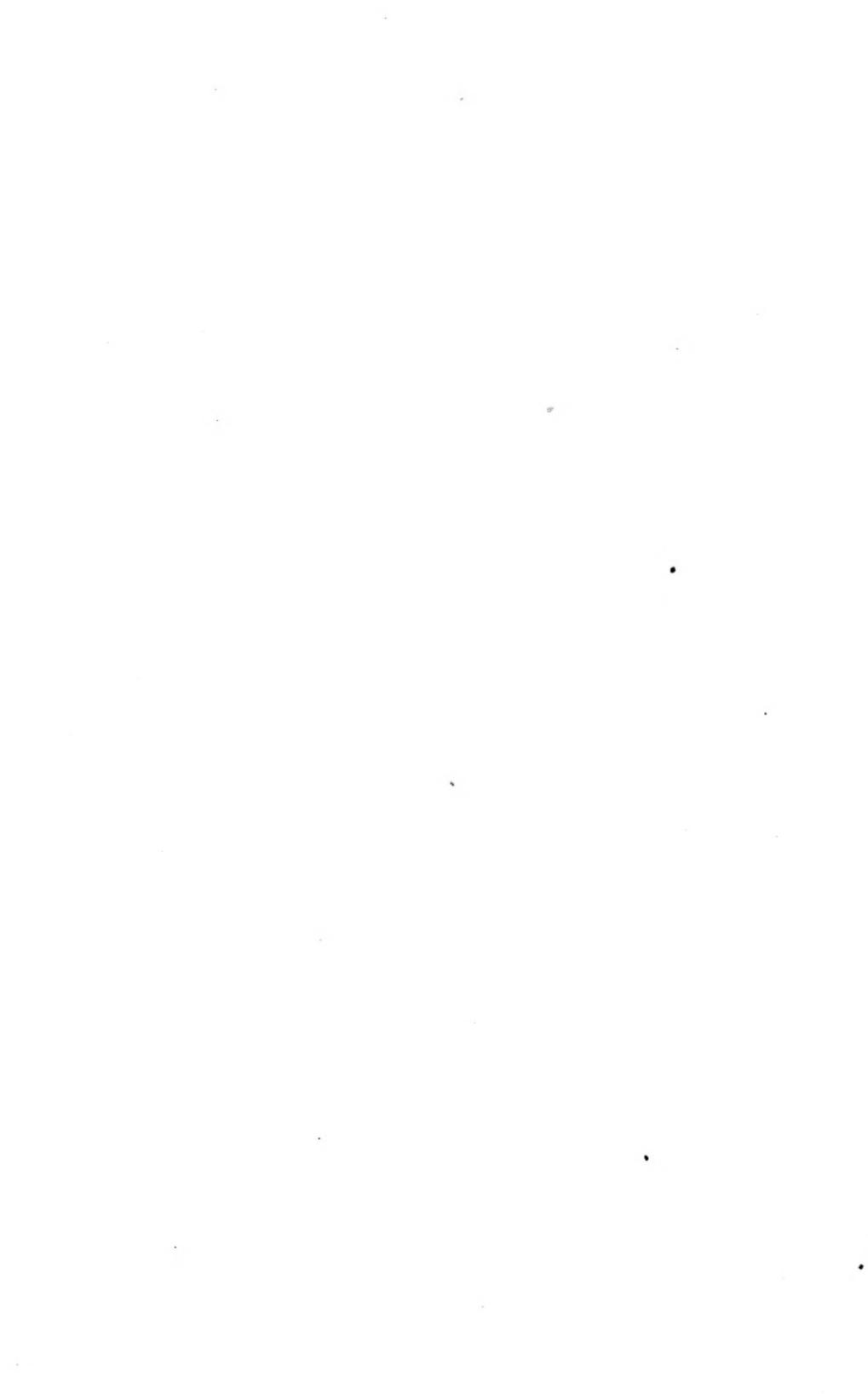






















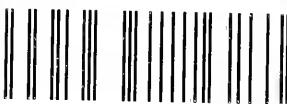








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